

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-249-C - ORDER NO. 93-671 ✓c
JULY 26, 1993

IN RE: Application of Hertz Technologies, Inc.)
for a Certificate of Public Convenience) ORDER
and Necessity to Provide Resold Inter-) APPROVING
exchange Telecommunications Services) CERTIFICATE
within South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Hertz Technologies, Inc. (Hertz or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. Hertz's Application was filed pursuant to S.C. Code Ann. § 58-8-280 (Supp. 1992) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Hertz to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Hertz's Application and the manner and time in which to file the appropriate pleadings for participation in the proceeding. Hertz complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to

Intervene were filed on by Southern Bell Telephone and Telegraph Company (Southern Bell)¹ and the South Carolina Department of Consumer Affairs (the Consumer Advocate).

A hearing was commenced on July 15, 1993, at 10:30 a.m., in the Commission's Hearing Room. The Honorable Rudolph Mitchell, Vice-Chairman, presided. M. John Bowen, Jr., Esquire, appeared on behalf of Hertz. Carl F. McIntosh, Esquire, represented the Consumer Advocate, and F. David Butler, General Counsel, represented the Commission Staff.

Hertz presented the testimony of Scott Floyd, Marketing Director for Hertz Technologies, Inc., in support of its Application. Mr. Floyd explained Hertz's request for authority to provide interexchange telecommunications services in South Carolina as a non-facilities based reseller. Mr. Floyd testified that Hertz planned to utilize the long distance facilities of AT&T and WilTel. Mr. Floyd further testified that Hertz intends to offer a wide range of toll services to business users including, but not limited to, direct dial 1+ type toll services and 800 inbound services and that Hertz's services are to be offered in all equal access areas in South Carolina.

Mr. Floyd explained that Hertz Technologies, Inc. is a wholly owned subsidiary of the Hertz Corporation, which is the largest automobile rental agency in the country. Mr. Floyd testified that

1. Southern Bell subsequently moved to withdraw its Intervention in this Docket and was allowed to withdraw its Intervention by Order No. 93-584, dated June 30, 1993.

the resources of the Hertz Corporation stand behind Hertz Technologies thereby insuring that Hertz Technologies has the financial resources to provide uninterrupted service to their customers.

Mr. Floyd further submitted that Hertz will provide an additional choice for consumers and that additional choices will promote competition thereby requiring service providers to improve service or lower costs resulting in better service for lower costs for South Carolina customers.

After full consideration of the applicable law, the Company's Application, and the evidence presented by Hertz, the Consumer Advocate, and the Commission Staff, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Hertz is incorporated under the laws of the State of Delaware, and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Hertz operates as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina.
3. Hertz has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Hertz to provide intrastate service through the resale of Message Telecommunications Service, Wide Area

Telecommunications Service, Direct Dial 800 Service, Data Transmission Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Hertz for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). The Commission adopts Hertz's proposed maximum rate tariffs.

3. Hertz shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Hertz shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective dates of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of Hertz's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp.

1992).

4. Hertz shall file its tariff and an accompanying price list to reflect the Commission's findings within thirty (30) days of the date of this Order. Further, the tariff shall be filed with the Commission in a loose-leaf binder.

5. Hertz is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to Hertz's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if they so desire.

7. Hertz shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Hertz changes underlying carriers, it shall notify the Commission in writing.

8. Hertz shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. Hertz shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

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10. That this Order shall remain in full force and effect
until further Order of the Commission.

BY ORDER OF THE COMMISSION:

VICE Rudolph Mitchell
Chairman

ATTEST:

Deputy [Signature]
Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR RESELLERS OF TELECOMMUNICATION SERVICE

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12 MONTHS
ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL
AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).